



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION

445 Twelfth Street, S.W.

WASHINGTON, D.C. 20554

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY MONROE COUNTY, NEW YORK TO OBTAIN A PUBLIC SAFETY PAGING SYSTEM SERVING POLICE, FIRE AND OTHER COUNTY PUBLIC SAFETY AGENCIES

Comment Date: June 14, 2002

Reply Date: June 21, 2002

On April 3, 2002, Monroe County filed a license application and a request for waiver to use 931.3125 MHz for a public safety paging system serving police, fire and other public safety agencies through Monroe County, New York ("Monroe" or "County"). Monroe contends that its public safety communications needs cannot be met by use of the frequency 453.400 MHz, which is currently licensed to Monroe.

The County requests waivers of Sections 22.503 and 22.531 of the Commission's Rules, 47 C.F.R. § 22.503, 22.531 and any other Commission rules that are necessary to grant its application, pursuant to Section 337(c) of the Communications Act, as amended, 47 U.S.C. § 337(c), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925. Section 337(c) of the Act states that the Commission shall grant an application by an entity seeking to provide public safety services to the extent necessary to permit the use of unassigned frequencies, if the Commission makes five specific findings: (1) no other spectrum allocated for public safety use is immediately available; (2) there will be no harmful interference to other spectrum users entitled to protection; (3) public safety use of the frequencies is consistent with other public safety spectrum allocations in the geographic area in question; (4) the unassigned frequencies were allocated for their present use not less than two years prior to the grant of the application at issue; and (5) the grant of the application is consistent with the public interest. "Public safety services" are defined by 47 U.S.C. § 337(f) as services the sole or principal purpose of which is to protect the safety of life, health, or property, that are provided by the governmental entities or by non-governmental entities authorized by the governmental entity whose primary mission is the provision of such services, and that are not made commercially available to the public by the provider.

Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, provides that a waiver of the Commission's Rules may be granted if it is shown that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or in view of the unique or unusual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest or if the applicant has no reasonable alternative.

Monroe indicates that its public safety communications system is almost 30 years old. It submits that in 1994, the County joined with the City of Rochester to build a new 911 Emergency Communications Center, and fully integrated automated paging into its Computer Aided Dispatch system. This permits Fire and Emergency Medical Service providers to receive detailed incident information directly on their text pagers. The system is currently used by every fire department and EMS agency in the County, most police

departments in the County, several federal agencies, and a wide range of government officials. Monroe states that the paging system reduces call handling time and provides emergency responders with quick access to critical information while in the field. The County contends that advances made in paging equipment often make voice communication unnecessary. The result of this improved paging capability has been a dramatic increase in the number of public safety pagers in the County.

According to Monroe, there were 400 pagers in use when it commenced operating its paging network in 1974, whereas, now there are over 4,000 pagers. Monroe further submits that its current paging system faces problems due to increased co-channel interference and growing shortages of equipment. Monroe contends that use of the requested 931.3125 MHz frequency or, in the alternative, 931.1875 MHz, 931.2875 MHz, 931.3625 MHz, 931.3875 MHz or 931.4125 MHz would resolve its difficulties. It indicates that paging equipment is readily available for any of these cited channels, thereby offering superior equipment availability. Monroe alleges that commercial systems cannot meet its public safety communications needs. It also notes that the requested frequency is unassigned within 120 miles of the County, and no bids were placed for the channel in two recently completed auctions. The County believes that grant of its waiver request would serve the public interest because it would further spectrum efficiency and improve the safety of life, health and property. Monroe submits that it meets the criteria set forth in Section 337(c) of the Act and, if not, its request would nevertheless meet the standards set in Section 1.925(b)(3) of the Commission's Rules.

Interested parties may file comments on the Waiver Request on or before **June 14, 2002**. Parties interested in submitting reply comments must do so on or before **June 21, 2002**. All comments should reference the subject waiver request including the DA number of this *Public Notice*, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-325, Washington, D.C. 20054. A copy of each filing should be sent to (1) Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 863-2893; (2) Freda Lippert Thyden, Esq., Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 Twelfth Street, SW, Room 4-C325, Washington, D.C. 20554; and (3) Maria Ringold, Federal Communications Commission, Consumer and Governmental Affairs Bureau, Reference Information Center, 445 Twelfth Street, S.W., Room CY-B529, Washington, D.C. 20554.

The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only by the Commission's contractor, Vistrionix, Inc., at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering 236 Massachusetts Avenue, N.E. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. *See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, Public Notice, 16 FCC Rcd 22165 (rel. Dec. 14, 2001).*

The full text of the Waiver Request, comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies also may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. For further information regarding the public reference file for this Waiver Request, contact Maria Ringold, Chief,

Wireless Branch, RIC, (202) 418-1355.

Unless otherwise provided, requests for waiver of the Commission's Rules are subject to treatment by the Commission as restricted proceedings for *ex parte* purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver request, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a), 1.1206 of the Commission's Rules, 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this *Public Notice*, *ex parte* presentations that are made with respect to the issues involved in the subject waiver request will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

For further information, contact John J. Schauble, Esq., Chief, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau at (202) 418-0797, TTY (202) 418-7233, or via e-mail to jschaubl@fcc.gov.

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

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